

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

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Date: **AUG 30 1996**

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Date: **Oct. 9, 1996**

Signature [REDACTED]

E.I.N.: [REDACTED]

Key District Office: Western (Los Angeles, CA)

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify for exemption under that section.

You are a corporation organized and existing under the laws of the State of [REDACTED]. You were established by the [REDACTED] (hereafter "[REDACTED]"), a completely separate organization. The [REDACTED] is an organization exempt under section 501(c)(6) of the Code.

You are organized for the purpose of providing financial assistance to prospective members of the organization, [REDACTED], who are unable to meet the financial obligations of membership, meaning, primarily initiation fees and annual dues. The type of persons selected for this benefit would include persons from academia, government or foreign countries, primarily eastern European countries. The persons receiving such financial benefit of membership in the [REDACTED] would benefit from such affiliation by virtue of that organization's educational programs, networking opportunities and other advantages of membership.

You have applied for status as a supporting organization to the [REDACTED] under section 509(a)(3) of the Code presumably by virtue of the authority provided under the last sentence of section 509(a) of the Code.

In subsequent correspondence, the affiliation of the grant recipients was described as benefitting both the grant recipient and the [REDACTED] and its members. It is asserted that the grant recipient working in academia is benefitted by exposure to practical experiences and perspectives gained through participation in the [REDACTED]. The practical experiences of the real estate counselors will enhance the skill of

[REDACTED]

the academic recipients in carrying out their teaching and research responsibilities.

There is a benefit to foreign practitioners who are grant recipients by virtue of the exposure to the functioning of the real estate industry in a free market economy. They will also receive the benefit of networking capabilities with U.S. associates and up to date information contained in the newsletter distributed to members as well as receiving the [REDACTED] Member Directory.

The professionalism of the real estate practitioners (meaning, presumably, members of the [REDACTED]) will be advanced, it is asserted, by exposure to the academic grant recipient as well as the foreign practitioners. Such association will further the "professionalizing" of the practice of real estate consulting and increase the general level of knowledge of the function of real estate in the economy.

You will authorize two to three grants per year. The fee for initiation is \$[REDACTED] and the annual dues are \$[REDACTED] per person. There is no assurance that the grant recipient will receive further assistance with respect to payment of annual dues in a subsequent year, although further assistance is not precluded. Apparently, the foreign practitioners and even the U.S. situs academic grant recipients will not receive travel or lodging assistance to attend the annual meeting.

The source of contributions to your organization to finance the grants to individuals will come primarily from the members of the parent organization, [REDACTED].

In essence, the purposes of your organization are asserted to be charitable in that the proposed grants would benefit the general public in the United States and the public of foreign countries having grant recipients. Further, the grant making activity is asserted to have an educational purpose for the grant recipient.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for one or more of the purposes specified therein.

Section 1.503(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.503(c)(3)-1(c)(2) of the Regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

An organization is not operated exclusively for charitable purposes, and thus will not qualify for exemption under section 501(c)(3) if it has a single non-charitable purpose that is substantial in nature. This is true regardless of the number or importance of the organization's charitable purposes. Better Business Bureau V. United States, 326 U.S. 278 (1945); Stevens Bros. Foundation, Inc. v. Commissioner, 324 F.2d 633 (8th Cir. 1963), aff'g. 39 T.C. 93 (1962), Cert. denied, 376 U.S. 969 (1964).

The grant program of your organization provides a private benefit that is more than insubstantial in nature. The grants to private individuals will allow them to associate with your organization without cost to such grant recipients. This is a direct private benefit to such individuals. Further, there is private benefit to the parent organization ([REDACTED]) and its members by virtue of the fact the organization and its members benefit by the exposure of the members to the academic and foreign grant recipients. Also such association will further the professionalizing of real estate consulting.

Further, there is a promotion of the private business interests of the members of the [REDACTED] by virtue of the prestige that the organization may gain by carrying the name of renowned academics. Private interests are also served by the access or networking that the members may achieve by virtue of the membership of the grant recipients.

The Court of Appeals in Mutual Aid Association of the Church of the Brethren v. U.S., 759 F.2d 792 (10th Cir., 1985) held that an organization that provided its members only with casualty insurance was not entitled to exemption since the activities of the organization were not dedicated exclusively or primarily to advancement of religion or social welfare because of the presence of a substantial nonexempt purpose, providing property insurance to members. In a similar manner, your organization does not serve a primarily educational or public welfare purpose because of the presence of a substantial nonexempt purpose, providing a private benefit to individuals, the parent organization and its members.

The Tax Court in Callaway Family Association, Inc. v. Commissioner, 71 T.C. 340 (1978), noted that the Service had conceded that the organization did have some educational purposes. However, the Court held that the organization was not exempt because the primary benefit of the organization's activities flowed

directly to the members of the Callaway family. Any public benefit was clearly secondary and incidental to the private benefit to the organization's members. The holding of this case is directly applicable to the facts presented by your organization. While there may be some incidental or secondary educational purposes of the organization, the primary benefit flows to the individual grant recipients and the parent organization and its members. In this regard it should be noted that there is no assertion that the recipients of the grants belong to a charitable class such as the underprivileged or the poor.

Furthermore, the facts suggest that purpose of the grants is to serve a primarily personal benefit to the grant recipients by allowing them the advantages of membership of a professional society. grant recipients from foreign countries or academia are not supported with funds to attend the annual meetings where some educational seminars may be presented. Thus, the most important educational element of the parent organization may be unavailable to grant recipients due to the cost of travel and lodging.

Clearly you have failed to establish that your organization provides grants for any more than a tenuous or incidental educational benefit. Any educational benefit is overshadowed by a dominate private benefit.

In summary, you fail to qualify for tax exemption because of a substantial impermissible private benefit and because you are not operated for exclusively charitable or educational purposes.

Additionally, your subsequent correspondence indicates that your organization's activities address critical social issues and is of great benefit to the general public and thereby lessens the burdens of government. You have completely failed to make any credible connection between the individual grants to two or three individuals per year for membership in the [REDACTED], a purely professional or trade organization, and the benefit to the public in the nature of lessening the burdens of government.

Since you do not meet the "operational test" requirements of the Code, you do not qualify for recognition of exemption from income tax under section 501(c)(3) of the Code.

Contributions to you are not deductible under section 170 of the Code.

You are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the United States Tax Court, the U.S. Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action, in accordance with section 6104(c) of the Code.

Sincerely yours,

Chief, Exempt Organizations
Rulings Branch 3

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	11/11/87	11/11/87					
Surname							
Date	8/29/96	8/29/96					

[REDACTED]

cc: Key District: Southeast (Baltimore, MD)
Attn: EO Group

cc: w/Form 5998
State officials of [REDACTED]